IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,	Case No. 3:21-cv-335-JR
Plaintiff,	**ORDER**
v.	
AQUATHERM GmbH, **AQUATHERM L.P.**, **CLARK FAMILY HOLDINGS, L.C.**, **AQUATHERM, INC.**, **AETNA NA, L.C.**, **HARRINGTON INDUSTRIAL PLASTICS LLC**, and **RIDGELINE MECHANICAL SALES LLC.**,	
Defendants.	

Michael H. Simon, District Judge.

United States Magistrate Judge Julie A. Russo issued Findings and Recommendation[1] in

this case on July 13, 2021. ECF 35. Judge Russo recommended that this Court deny Defendants'

Motion for More Definite Statement (ECF 26). No party has filed objections.

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[1] For the reasons explained below, when a magistrate judge issues a ruling on a nondispostive motion, the ruling is an "Opinion and Order" rather than a "Finding and Recommendation." *Cf. Schedler v. FieldTurf USA, INC.*, 2017 WL 3412205, at *1 (D. Or. Aug. 9, 2017). Because the Defendants' motion for more definite statement is a nondispositive motion, the Court construes Judge Russo's Findings and Recommendation as an Opinion and Order.

Rule 72 of the Federal Rules of Civil Procedure allows a magistrate judge to "hear and decide" all referred pretrial matters that are "not dispositive of a party's claim or defense." Fed. R. Civ. P. 72(a). For dispositive matters where the parties have not consented to the magistrate judge's jurisdiction, Rule 72 allows the magistrate judge only to "enter a recommended disposition, including, if appropriate, proposed findings of fact." Fed. R. Civ. P. 72(b)(1).

The distinction between a dispositive motion and a nondispositive matter is significant for the standard of review. When a party timely objects to a magistrate judge's findings and recommendations concerning a dispositive motion, the district judge must make a *de novo* determination of those portions of the magistrate judge's proposed findings and recommendations to which an objection has been made. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). When a party timely objects to a magistrate judge's determination of a nondispositive matter, however, the district judge may reject that determination only when it has been shown that the magistrate judge's order is either clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). This means the Court "will evaluate the Magistrate Judge's factual findings to determine if any are clearly erroneous" and "will evaluate the Magistrate Judge's legal conclusions to determine if any are contrary to law, which involves a de novo review of those issues." *Quatama Park Townhomes Owners Ass'n v. RBC Real Est. Fin., Inc.*, 365 F. Supp. 3d 1129, 1133 (D. Or. 2019); *see also id.* at 1141-42.

The Federal Magistrates Act (the Act) does not prescribe any standard of review when no party objects. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge's findings

and recommendations if objection is made, "but not otherwise"). Although the Advisory Committee Notes to Rule 72(b) recommend that the Court review the magistrate judge's *findings and recommendations* for "clear error on the face of the record," even "[w]hen no timely objection is filed," the Advisory Committee Notes provide no guidance on how to review a magistrate judge's *opinion and order* on a nondispositive motion.

The Court need not determine by what standard to review a magistrate judge's opinion and order on a nondispositive motion when no party files an objection because Judge Russo's Opinion and Order survives either clear error or *de novo* review. Accordingly, the Court ADOPTS Judge Russo's Opinion and Order, ECF 35. The Court DENIES Defendants' Motion for More Definite Statement (ECF 26).

IT IS SO ORDERED.

DATED this 30th day of July, 2021.

/s/ *Michael H. Simon*
Michael H. Simon
United States District Judge

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